

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BOMBARDIER INC.,

Plaintiff,

v.

MITSUBISHI AIRCRAFT  
CORPORATION, MITSUBISHI  
AIRCRAFT CORPORATION AMERICA,  
INC., et al.,

Defendants.

2:18-cv-1543 JLR

DECLARATION OF DUC NGUYEN IN  
SUPPORT OF DEFENDANT MITSUBISHI  
AIRCRAFT CORPORATION'S  
OPPOSITION TO BOMBARDIER'S  
MOTION FOR PRELIMINARY  
INJUNCTION

I, Duc Nguyen, declare as follows:

I am an individual resident of Bayonne, New Jersey. I am over 18 years of age. Unless otherwise stated, I have personal and firsthand knowledge of the facts set forth in this declaration. I can and will testify competently to such facts if called to do so as a witness.

1. This Declaration supplements the declaration I signed on December 26, 2018, for this litigation. My professional background, devices and data sources reviewed, initial investigation, and opinions are contained in that declaration.

2. Since December 26, 2018, at Perkins Coie LLP's direction, I have continued my investigation of the MITAC America's servers and devices listed in paragraph 7 of my December 26, 2018 declaration. With respect to MITAC America's server data, we have further

DECLARATION OF DUC NGUYEN IN SUPPORT OF MITAC'S  
RESPONSE TO BOMBARDIER'S MOTION FOR PRELIMINARY  
INJUNCTION (No. 18-cv-1543 JLR) – 1

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analyzed MITAC Server Shares 1 and 2 ("YSMTAFS01" and "YSMTAFS02," respectively). Server 3 ("YSMTAFS03") is still processing and is approximately 33 percent completed.

3. This continued investigation has included file name searches, keyword searches in extracted and OCR text, hash value comparison searches, web browser searches, network share searches, and deletion program analysis, as described more fully below.

4. I performed a supplemental file name listing review of the collected data against a list of the eleven file names, which names are listed in Exhibit E to my December 26, 2018 declaration. I understand that files with these eleven names were attached to the Burns and Tidd declarations submitted by the plaintiff in the litigation. My supplemental file name listing review followed the same process as described in Paragraph 9 to my December 26, 2018 declaration, but expanded the review to include Western Digital My Passport, Western Digital My Book, YSMTAFS01 and YSMTAFS02. I compared the file name search terms from Exhibit E against Western Digital My Passport, Western Digital My Book, YSMTAFS01 and YSMTAFS02 and did not identify any instances of the eleven Burns and Tidd documents on those MITAC America servers. This file name search analysis, combined with the analysis explained in my December 26, 2018 Declaration, has not identified a copy of any of the eleven Burns and Tidd documents on any of the devices or servers I was provided or provided access to.

5. I searched the MITAC America devices' web browser histories for forensic artifacts of visits to websites that are commonly used to transfer files, such as webmail or cloud account webpages. Those devices included:

- Cindy Dorneval – MITAC A Fujitsu LIFEBOOK E734 laptop – YSMTA0017
- Laurus Basson – MITAC A Fujitsu LIFEBOOK E734 laptop – YSMTA0005
- Marc-Antoine DeLarche – MITAC-A Fujitsu LIFEBOOK E734 laptop – YMMTA0263
- Cindy Dorneval – MITAC A Fujitsu LIFEBOOK E736 laptop – YSMTA0217
- Laurus Basson – MITAC A Fujitsu LIFEBOOK E736 laptop – YSMTA0181

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2 Based on my search, I did not identify any web activity lending itself to malicious or  
3 otherwise suspicious data transfers.

4 6. I searched the MITAC America devices for forensic artifacts showing  
5 connections to network share locations because users can transfer or download files by  
6 connecting to network shares. Those devices included:

- 7
- 8 • Cindy Dorneval – MITAC A Fujitsu LIFEBOOK E734 laptop – YSMTA0017
  - 9 • Laurus Basson – MITAC A Fujitsu LIFEBOOK E734 laptop – YSMTA0005
  - 10 • Marc-Antoine DeLarche – MITAC-A Fujitsu LIFEBOOK E734 laptop –  
11 YMMTA0263
  - 12 • Cindy Dorneval – MITAC-A Fujitsu LIFEBOOK E736 laptop – YSMTA0217
  - 13 • Laurus Basson – MITAC A Fujitsu LIFEBOOK E736 laptop – YSMTA0181

14 Based on my search, I did not identify any instances of the user connecting to a non-  
15 MITAC server, which leads me to the opinion that documents were not transferred to these  
16 computers from any non-MITAC server.

17 7. I performed an MD5 hash value analysis as well. One of the Burns & Tidd  
18 documents was present on Ms. Dorneval's personal computer: BM7002.02.15.02 – Flight  
19 Performances.pdf. I generated an MD5 hash value, which is a method to uniquely identify a file,  
20 for the document present on her personal computer. I compared the hash value against all the  
21 MITAC America data sources I was provided and did not find any matches, which strongly  
22 suggests that the same document from Ms. Dorneval's computer is not present on MITAC  
23 America's servers.

24 8. I searched all of the corporate devices for evidence that deletion or file wiping  
25 programs were run. I searched for 57 different file deletion software programs, which are listed  
26 on Exhibit A to this Declaration. I did not find evidence that any of these deletion programs were  
27 run.

28 **DECLARATION OF DUC NGUYEN IN SUPPORT OF MITAC'S**  
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2           9.       Additionally, we have been diligently conducting the analysis on the MITAC  
3 America data including YSMTAFS03 since November of 2018 and have completed most of the  
4 analysis. Due to the sheer volume of data in YSMTAFS03, however, it could not be completed  
5 by the filing of this Declaration. We have nonetheless been instructed by Perkins Coie to  
6 complete our analysis on YSMTAFS03 and we are continuing to do so.

7           10.     I understand that counsel for MITAC America requested forensic copies of the  
8 eleven documents at issue, but that Bombardier declined to provide them. Had we been provided  
9 forensic copies of the eleven documents, it would have dramatically simplified the process  
10 needed, and decreased the amount of time required, to confirm that the documents do not exist in  
11 the data collected.

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2 **I declare under penalty of perjury under the laws of the United States**  
3 **that the foregoing is true and correct**

4 Executed at 11:32 pm this 13<sup>th</sup> day of May 2019.

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7 Duc Nguyen

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**CERTIFICATE OF SERVICE**

I certify under penalty of perjury that on May 13, 2019, I electronically served the foregoing via email.

DATED this 13th day of May, 2018.

s/Mary Z. Gaston

Mary Z. Gaston, WSBA No. 27258

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